

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66290

Petitioner:

WEHRLI TRUST, JEREMY BIRCHER TRUSTEE,

v.

Respondent:

LARIMER COUNTY BOARD OF EQUALIZATION

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 28, 2016, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by Jeremy Bircher, Trustee. Respondent was represented by David Ayraud, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**328 Wellspring Lane, Livermore, Colorado
Larimer County Parcel No. 21050-00-006**

The subject is a 1½ story, log frame cabin constructed in 1979 and containing 1,080 square feet of above grade living area. There are two bedrooms, one rough-in bath, and one outhouse. There is a 504 square foot detached masonry garage, and parcel size is reported to be 36.35 acres. Zoning is “O” (Open) through Larimer County. The property is reported to be in overall average condition and is considered “off grid” relative to utilities; it is serviced by well septic, and solar power. No exterior or interior inspection of the property was accomplished by Respondent.

Petitioner is requesting an actual value of \$150,000 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of \$250,000; however, is deferring to the Board of Equalization’s (BOE) assigned value of \$200,000 for tax year 2015.

Petitioner’s witness, Jeremy Bircher, Trustee, did not present any comparable sales; however, did testify that the property suffered from a number of deficiencies that Larimer County did not recognize in their valuation analysis, and in their comparable sales. Specifically,

these deficiencies included a lack of availability of public utilities, and a lack of legal access to the property. Mr. Bircher did agree with Respondent that the property was purchased during the base period by Petitioner for \$230,000; however, testified that this price in his opinion was excessive due to the deficiencies noted above, and that the purchase was a “mistake”.

Relative to the valuation provided by the County, Respondent’s witness, Mr. Jason Marks of the Larimer County Assessor’s Office, developed a market (sales comparison) approach and presented three comparable sales including the sale of the subject in July of 2013 to support his opinion of value. All of the sales were located in rural Larimer County, and sale prices ranged from \$140,000 to \$246,000 prior to adjustment, and from \$206,276 to \$257,508 subsequent to adjustment. All of the sales occurred in the statutory base period. The significant adjustments to the sales by Mr. Marks consisted of date of sale (time), living area square footage, garage, design, quality, and lot size. No adjustments were made for the lack of public utilities to the subject; Mr. Marks could not determine a market difference between sales of homes with and without conventional utilities. With emphasis on all of the comparables and specifically Comparable No. 1, which was the subject and also required the least percentage adjustment, Mr. Marks concluded to a final value of \$250,000 for the subject for tax year 2015.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Colorado case law requires that “[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . .” *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent’s comparable sales and adjustments to the sales, specifically the sale of the subject during the base period, accurately reflect the market value for the subject property. The sales used by Respondent were all located in rural Larimer County, and were representative of the market during the applicable statutory base period. The Board also concludes that, given Petitioner’s lack of documentation relative to the perceived deficiencies in the property, as well as the lack of any comparable sales, no impeachment of Respondent’s conclusion of value could be reasonably accomplished.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the

recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

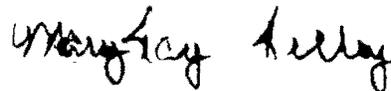
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 18th day of February, 2016.

BOARD OF ASSESSMENT APPEALS

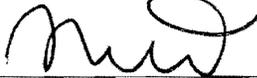


MaryKay Kelley



James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk

